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April 18, 2006

AGENDA ITEM 4-C

**TO: MEMBERS OF THE BENEFITS AND PROGRAM ADMINISTRATION
COMMITTEE**

- I. SUBJECT:** Assembly Bill 2766 (Montanez)—
As Introduced February 24, 2006
- Bargaining Unit 12: Death and Disability Retirement
Benefits
- II. PROGRAM:** Legislation
- III. RECOMMENDATION:** Neutral
- This legislation will provide industrial disability
retirement and special death benefits to a group of
California employees having a need for these
benefits due to the high incidence of job-related
injuries.

IV. ANALYSIS:

AB 2766 would remove the requirement that industrial disability retirement benefits and the special death benefit for miscellaneous members in Bargaining Unit 12 employed by the Department of Transportation (CalTrans) be subject to a memorandum of understanding (MOU) between the bargaining unit and the Department of Personnel Administration (DPA).

Background

Bargaining Unit 12 is comprised of the craft and maintenance workers and includes the highway maintenance personnel employed by CalTrans. Unit 12 has about 11,000 members; approximately 6,000 are employed by CalTrans and would be affected by AB 2766. The affected employees are classified as state miscellaneous members, but are eligible to receive enhanced disability retirement and death benefits if these benefits are provided through an MOU between the bargaining unit and the DPA.

Pre-Retirement Death Benefit—State Miscellaneous Employees

The death benefits paid for active members with less than 20 years of service and who are not eligible to retire include group term life insurance consisting of the sum of \$5,000 and 6 months of pay, and the basic death benefit, which consists of a return of the member's contributions and interest.

For active members having 20 or more years of service or who are eligible to retire (age 50 or older and have at least 5 years of service), a surviving spouse may choose between the basic death benefit (in this case consisting of the member's contributions and interest and 6 months of pay) and a continuing lifetime allowance equal to what the benefit would have been if the member had retired on the date of death and elected the service Option 2W retirement allowance. In addition, the spouse would receive the group term life insurance of \$5,000. The survivor would also be eligible to receive state retiree health coverage if he or she is receiving the retirement allowance. An allowance equal to one-half of the unmodified service retirement allowance amount may be paid to unmarried minor children if there is no surviving spouse.

These benefits are paid whether or not the death results from a job-related injury.

Ordinary Disability Retirement Benefits—State Miscellaneous Employees

State miscellaneous employees are entitled to disability retirement if they become disabled and cannot continue to work. They must be vested with 5 years of service to be eligible. Disability may or may not be work-related. The benefit amount is based on years of service and pays a percentage of the member's compensation.

- Less than 10 years of service: 1.8 percent per year of service
- 10 or more years of service: 1.8 percent per year of service as if the service were to continue to age 60—not to exceed 33 percent

If the member is qualified for service retirement, the member shall receive the service retirement allowance if that allowance is greater than the disability retirement allowance.

Special Death Benefit

Currently, if an MOU is negotiated between Bargaining Unit 12 and the DPA, Unit 12 members employed by CalTrans would be eligible for the special death benefit, which pays 50 percent of the member's compensation to the surviving spouse. If the cause of death is due to external violence or physical force while on the job, and there are eligible surviving children in addition to a spouse, the allowance may be increased to a maximum of 75 percent. The increased amount is payable until each child attains age 22. In addition, the member's survivor would receive the group term life insurance (\$5,000, plus 6 months of pay).

The special death benefit is paid to the survivor of a safety member who dies as the result of an injury or illness incurred on the job and is paid regardless of the member's length of service. The injury or illness may be the result of a violent act, or it may result from some other work-related occurrence. The special death benefit increases annually, based on increases to the salaries of members employed in the deceased member's occupation, until the member would have reached age 50.

If the member was eligible to retire, or had 20 or more years of service, the survivor's continuing lifetime allowance would equal the amount that would have been paid had the member retired on the date of death and elected the service Option 2W retirement allowance, if that amount would be greater than the amount paid by the special death benefit. In addition, the member's survivor would receive the group term life insurance of \$5,000.

All survivors of state patrol, peace officers, firefighters, and safety members are eligible for the special death benefit if death was work-related. Survivors of state miscellaneous and industrial members may only be eligible to receive the special death benefit if the member is killed as the result of a violent act incurred in the performance of official duties.

Industrial Disability Retirement Benefit

Currently, if an MOU is negotiated between Bargaining Unit 12 and the DPA, Unit 12 members employed by CalTrans would be eligible for industrial disability retirement, which pays 50 percent of the member's compensation for life. A member must be disabled due to a work-related injury or illness and the benefit is paid regardless of the member's age or length of service.

If the member is qualified for service retirement, the member shall receive the service retirement allowance if that allowance is greater than the disability retirement allowance.

All state patrol, peace officers, firefighters, and safety members who incur job-related illness or injury are eligible for industrial disability retirement. State miscellaneous and industrial members may only receive industrial disability retirement if they are disabled as the direct result of a violent act perpetrated by an inmate or parolee and incurred in the performance of official duties. Exceptions to this are criminalists and latent print analysts employed by the Department of Justice and communications operators for the California Highway Patrol. These state miscellaneous members have negotiated and receive industrial disability retirement benefits as part of their contract with the DPA.

Proposed Changes

AB 2766 would remove the requirement that industrial disability retirement benefits and the special death benefit for miscellaneous members in Bargaining Unit 12 employed by CalTrans are subject to an MOU between the bargaining unit and the DPA. The benefits would be available for employees who are disabled or killed as a result of a job-related injury.

Legislative History

2005 SB 1093 (Soto)—Would remove the requirement that industrial disability retirement benefits and the special death benefit for miscellaneous members in Bargaining Unit 12 employed by the Department of Transportation (CalTrans) be provided pursuant to a memorandum of understanding (MOU) between the bargaining unit and the Department of Personnel Administration (DPA).

CalPERS' position: Support

2002 Chapter 1153 (SB 1984, Soto)—Subject to negotiation, provided miscellaneous members in Bargaining Unit 12 employed by CalTrans with industrial disability retirement benefits and the special death benefit if they are injured or killed as a result of a job-related injury. *CalPERS' position: Neutral*

1994 Chapter 610 (SB 1570, Hart)—Provided the special death benefit for state miscellaneous members killed by a violent act incurred in the performance of official duties. Early versions of the bill also provided the benefit to highway workers who died as a result of being struck by a moving vehicle while working. The highway worker provision was amended out of the final version of the bill.

CalPERS supported this bill in all its versions.

1991 AB 141 (Elder)—Would have provided industrial disability retirement and special death benefits for highway workers. Vetoed by Governor Wilson who stated that the benefits needed to be collectively bargained. *CalPERS' position: Support with suggested amendments*

SB 782 (Maddy)—Would have provided industrial disability retirement and special death benefits for highway workers. Failed passage. *CalPERS' position: Neutral with suggested amendments*

1990 AB 2548 (Elder)—Would have established a program to rehabilitate injured highway workers and return them to state employment. Severely disabled workers would have been eligible for industrial disability retirement. Vetoed by Governor Deukmejian who stated that the state already had in place the Injured State Workers Program to help rehabilitate injured workers and that any improvements should be collectively bargained. *CalPERS' position: Support with suggested amendments*

- 1989 AB 787 (Elder)—Similar to AB 2548. Vetoed by Governor Deukmejian who stated that the state already had in place the Injured State Workers Program to help rehabilitate injured workers and that any improvements should be collectively bargained. *CalPERS position: Support with suggested amendments*
- 1988 SB 2588 (Torres)—Similar to AB 787. Failed passage. *CalPERS' position: Support with suggested amendments*
- 1986 SB 2379 (Foran)—Similar to SB 2588. Failed Passage. *CalPERS' position: Support*
- 1980 Resolution Chapter 122 (ACR 139, Hallett)—Requested that the State Personnel Board perform a study to develop criteria for applying the State Industrial Category to positions in state service, and to determine which classes would be appropriate for inclusion, with first priority given to CalTrans and the treatment staff at the state hospitals.

The study was actually performed by the DPA and completed in 1981. The study concluded that the category of Industrial Retirement should not be expanded and that the higher injury rates experienced by CalTrans workers and hospital staff should be dealt with through the collective bargaining process “where the differing needs of those employees can be fully considered.”

Issues

1. Arguments of Those in Support

The sponsor states that when SB 1984 was initially passed in 2002 and sent to Governor Davis, it provided enhanced death and disability benefits to CalTrans workers without the requirement that the benefits be negotiated. While SB 1984 was in enrollment, representatives of Governor Davis indicated that he would not sign the bill unless it was made negotiable and promised to provide the benefits through bargaining. SB 1984 was returned from enrollment, made negotiable, and signed into law. However, since 2002, efforts to negotiate the benefits have been unsuccessful.

The sponsor also indicates that since SB 1984 became law, three CalTrans workers have been killed in the line of duty. CalTrans workers are frequently hit by moving vehicles and have higher incidences of lung and melanoma cancers due to exposure to exhaust fumes and sun.

Organizations in Support: International Union of Operating Engineers (sponsor)

2. Arguments of Those in Opposition

There is currently no known opposition.

3. Legislative Policy Standards

The Board's Legislative Policy Standards suggest a neutral or no position on proposals to change retirement benefits which are appropriately subject to collective bargaining. This bill deletes the requirement for collective bargaining for the enhanced benefits.

This legislation will provide industrial disability retirement and special death benefits to a group of California employees having a need for these benefits due to the high incidence of job-related injuries.

V. **STRATEGIC PLAN:**

This item is not a specific product of the Annual or Strategic Plans, but is part of the regular and ongoing workload of the Office of Governmental Affairs.

VI. **RESULTS/COSTS:**

CalTrans workers in Unit 12 who are disabled or killed on the job would be eligible to receive better death and disability retirement benefits than they currently receive.

Program Costs

Information provided to CalPERS by DPA indicates that over the last 6 years, the number of injuries among CalTrans employees that resulted in disabilities varied between 20 and 43 per year.

Based on this information, the following cost analysis was prepared using two different sets of assumptions. One set was the assumptions for industrial disability retirement and industrial death for state peace officer/firefighter members (POFF) and the other set was the assumptions for those of state safety members. Assuming the experience of Unit 12 members is similar to the experience of members of the POFF plan, about 50-60 industrial disabilities would be expected from year to year. Assuming the experience of Unit 12 members is similar to the experience of members of the state safety plan, about 30 industrial disabilities would be expected from year to year.

Provided as guideline, the table on the next page shows the impact on the state miscellaneous plan under both sets of assumptions and is based on the assumption that Unit 12 members will have similar industrial disability and death experience as existing State Safety or POFF members. To the extent the actual experience is different than the one assumed in this analysis, the cost of AB 2766 will be either higher or lower. The increase in accrued liability was amortized over a period of 20 years.

*** All Numbers are in Million ***

	Using State Safety IDR Assumptions	Using POFF IDR Assumptions
Estimated Increase in Present Value of Benefits	\$22.7	\$42.4
Estimated Increase in Accrued Liability	\$10.5	\$19.6
Estimated Increase in Normal Cost	\$4.9	\$9.2
Estimated Payment on UAL	<u>\$1.2</u>	<u>\$2.3</u>
Estimated Total Increase in Contribution	\$6.1	\$11.5
Increase in Contribution as a Percentage of Estimated BU 12 Payroll	2.5%	4.8%

CalPERS' current practice is to recognize the cost impact of benefit changes in the first actuarial valuation following the implementation date of the benefit change. If AB 2766 were to be chaptered and became effective on January 1, 2007, the cost impact of AB 2766 would first be recognized in the June 30, 2007 actuarial valuation of the state plans that sets the 2008-2009 State contribution.

Also, as mentioned before, the cost information in the above table is provided as a guideline only and is based on the assumption that Unit 12 members will have similar industrial disability and death experience as existing State Safety or POFF members. To the extent the actual experience is different than the one assumed in this analysis, the cost of AB 2766 will be either higher or lower.

Administrative Costs

AB 2766 will have a minimal impact on CalPERS' administrative costs.

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